

FILED

DEC 16 2024

CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

MICHAEL LOCKERT

PLAINTIFF,

V S,

EDWARD GUTIERREZ

DEFENDANT,

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. 19-CV-08204-PJH

OPPOSITION AND OBJECTIONS
TO DEFENDANT EDWARD GUTIERREZ
EXPERT DISCLOSURE

TABLE OF CONTENTS / set one

(1). OPPOSITION AND OBJECTIONS to Defendant EDWARD GUTIERREZ'S EXPERT DISCLOSURE, page's 1-7, with EXHIBITS (1), (2), (3), (4).

Michael Luckert

391 ELLIS St, San Francisco, CA 94102

707-803-3836

ATTORNEY in PRO-SE: Michael Luckert

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Michael Luckert

CV-19-08204-PJH

Plaintiff,

VS.

OPPOSITION AND objections

San Francisco Police Dept. to Defendant Edward

AND Officer Gutierrez, Gutierrez's Expert

Defendant

Disclosure.

I, Michael Luckert, am a carpenter by trade, ~~but at this time I am a incarcerated inmate.~~

At the time of this incident at the library on February 26, 2019 I was a free man. On this day I experienced Excessive Force with officer Gutierrez assaulting me, Michael Luckert, AND injuring me with Excessive Force. Violating the (8th Amendment) and also Medical Neglect which I think should be added to the charges of 2 counts of EXCESSIVE FORCE. I am at this time suing the San Francisco Police Dept. in there official capacity.

Because the San Francisco Police dept. and officer Gutierrez have erased, destroyed Video Surveillance/body camera's; And used Medical

OPPOSITION AND objections to defendant Edward Gutierrez / page 1 of 7
Expert Disclosure.

1 Neglect on Michael Luckert, Gutierrez should
 2 be held responsible in his official capacity And
 3 individual capacity for using excessive force on
 4 me, Michael Luckert, And if the honorable
 5 Judge will look at my original claim form I believe
 6 that is what I asked for from the very
 7 beginning.

8 9 OPPOSITION

10 (I.A) From page 1-27 in defendant Edward Gutierrez's
 11 Expert disclosure is nothing but a defense based on
 12 if I, Michael Luckert, was resisting arrest, delaying
 13 police etc...

14 (I.a) IT has already been established that I did not
 15 resist arrest, etc., Assault a librarian, or commit any
 16 crime that day at the library on February 26, 2019.

17 All charges got dropped and video surveillance

18 has and would prove my innocence that the
 19 San Francisco Police dept. and officer Gutierrez
 20 have destroyed or erased. This proof of destroyed

21 or erased video surveillance/body camera's is in
 22 the defendant's reply to Michael Luckert's

23 motion to compel. Which I have requested through
 24 a request for documents on March 19, 2024 but have
 25 never been sent. And should be considered as a joint
 26 undisputed fact of evidence at trial. Because of
 27 established documentation for trial.

28
 opposition and objections to defendant Edward
 Gutierrez expert disclosure.

(2.A) In Page 28 line 15-26 of (defendant Edward Gutierrez's expert disclosure) the Doctor is saying that I, Michael Luckert, have a open wound on my right thumb that is swollen a little; and left 4th digit tip of finger that are infected and swelled up a little, on the 16th of February, 2019, from working on my car.

(EXHIBIT.1), San Francisco Jail Medical Report, Dated: 2/22/19, Page 31 shows that I was prescribed antibiotics and I.B.U. for the swelling.

(2a). On March 1, 2019 I, Michael Luckert, was seen at Valley Care Pleasanton.

(EXHIBIT.2), Valley Care Pleasanton, Page 11, in the highlighted area does not show any diagnosis or signs of infection or open cuts on my hands.

(EXHIBIT.3), Valley Care Pleasanton, Page 25, Highlighted area shows that the medication that I got was only I.B.U. Profen (Motrin). No Medications were prescribed for infection.

CONCLUSION

(1) No Antibiotics were prescribed for infection at Valley Care Pleasanton. So Michael Luckert infected wounds and swelling were healed from 2-16-19 San Francisco Jail triage/medical Records Appointment. After all it is more then likely that a small wound with Antibiotic's and I.B.U. Profine would be healed in 10 days.

(2.) The Excessive Force that happened to Michael Luckert was a NEW INJURY. Please Refer to All Medical Reports In Opposition to Summary Judgment, Filing date: 6/29/22.

(3.) Video Surveillance would show the excessive Force through body Cameras but the defendant and San Francisco County Jail Police dept.

erased, destroyed the Video Surveillance/Body camera Footage. This Proof is in the defendant's response to my motion to compel, which I have already did a meet and confer with and the defence did not respond on that issue of sending me the documented proof here at Santa Rita Jail even though I asked through a document Request. The defence should be held responsible for breaking the Federal rules of civil procedure Rule 37 (e), (1), (2), (Failure to preserve Electronically stored information).

(3.A) The excessive Force that happened with Police officer Gutierrez happened after the triage and in the safety cell. As explained (In opposition to Summary Judgment) Filed date: 6/29/22, page 5, Line 11-24. And Amended complaint. And Again Body Cameras and video Surveillance would show the 2 counts of Excessive Force.

CONCLUSION

(Defendant Edward Gutierrez's Expert discovery), Page 28 Line 28-41 is irrelevant and the Defence and the honorable Judge should pay attention to time signature and EXHIBIT'S In opposition to Summary Judgment. EXHIBIT (1). At 22:17 I complained about my hand injury. EXHIBIT B, Page 1 and 2, High lighted Area's. I complained about my hand injury.

(EXHIBIT.4), San Francisco Jail Medical Report, Page 33 high lighted area will show that right after the excessive force At safety cell time 17:50 continuing on to the next Page, 34 high lighted area (EXHIBIT.B), (In opposition to summary Judgment) Filed 6/29/22, Page 1 I complained. Page 2 time Signature: 19:20 I complained again about my hand injury.

(4.A) IN (defendant EDWARD GUTIERREZ'S Expert disclosure), Page 29 lines 19-21 the defence said I said "In an attempt For the officer not to injure me I put just enough force on my wrists that were hand cuffed behind me so that my wrists and fingers would not break.

(4.a) officer Gutierrez did not give me any command, or reassess the situation. He pushed

my hand beyond the capacity of which it will
opposition and objections to defendant
EDWARD Gutierrez expert disclosure Page 5 of 7

1 bend. At this time is when I tried to
2 stiffen my hand's but it did not work
3 officer Gutierrez was just hell bound on
4 injuring me, in which he did. This behavior
5 being objectively unreasonable.

6 7 AUTHORITIES OF CASE LAW

8 Please refer to (In opposition to
9 SUMMARY Judgment), Filed on 6/29/22. Pages
10 1-4 .

11 12 OBJECTIONS

13 For the defence not to be able to
14 use any of (Defendant Edward Gutierrez's
15 Expert disclosure in trial).

16 17 18 CLOSING STATEMENT

19 Rule 52 (6), of the Federal Rules of civil
20 procedure. Setting aside the Findings of fact,
21 whether based on oral or other evidence, must
22 not be set aside unless clearly erroneous, and
23 the reviewing court must give due regard to
24 the trial court's opportunity to judge the
25 witnesses' credibility.

26 RELIEF

27 For Plaintiff to win ^{ML} in trial with 2 counts
28 of excessive force And a added charge of
opposition and objections to defendant
Edward Gutierrez expert disclosure Page 6 of 7

Date: ^{ML} ~~3-27-2024~~ 12-13-2024

signature of Attorney in pro-se:
Michael Luckert

~~COURT COPY~~ ML

EXHIBIT (1.)

SAN FRANCISCO JAIL
MEDICAL REPORT page 31

JHS Live03/24/21 13:01

Encounter Report

ID: 19641 (2260817) Date: 02/22/19 11:10
Patient: Luckert, Michael L Provider: System, Administrator
BirthDate: 07/12/69 Type: Discharge
Location: Site: County Jail 1
Tuberculin Purified Protein 5TU ind soln x1 0.1ml OTUC 02/16/19-02/22/19
Discontinued Patient Discharged
Cephalexin 500mg po cap x1 QID 02/19/19-02/25/19 *SA
Discontinued Patient Discharged
Ibuprofen 600mg po tab x1 QID 02/19/19-02/27/19 PRN *SA
Discontinued Patient Discharged
Wound Care Dressing Change 02/20/19 QD clean wounds to finger and thumb, place bacitracin and gauze...once a day..
Discontinued. Patient Discharged
Influenza Virus Vaccine, Inactivated (PF) im susp x1 OTUC 02/19/19-02/25/19
Discontinued Patient Discharged
Septra DS (gen) 800/160mg po tab x1 TAB BID-AP 02/22/19-02/25/19 *SA
Discontinued Patient Discharged
Wound Care Other Due: 02/17/19 17:00 right thumb and left 4th digit warm soapy soak twice a day and pm. Dressing open wounds with medihoney and DSD please. Until healed. SC if increased pain swelling redness or onset of fever.
Cancelled. Patient Discharged
JHS Return To Clinic re eval wounds to fingers, one finger is cellulitic...abx ordered
Cancelled. Patient Discharged
End-of-Report

EXHIBIT (1)

000031

EXHIBIT (2)

Valley Care PLEASANTON
MEDICAL REPORT



VALLEYCARE PLEASANTON
5555 W Las Positas Blvd
Pleasanton CA 94588-4000

Luckert, Michael
MRN: 75861773, DOB: 7/12/1969, Sex: M
Adm: 3/1/2019

03/01/2019 - ED in VCP Emergency Department (continued)

Events (continued)

Medication List

Medication List

This report is for documentation purposes only. The patient should not follow medication instructions within.
For accurate instructions regarding medications, the patient should instead consult their physician or after visit summary.

Prior To Admission

None

Discharge Medication List

None

Stopped In Visit

None

ED Provider Note

ED Provider Notes by Tjoe, Andreas, MD at 3/1/2019 1:29 PM

Author: Tjoe, Andreas, MD

Filed: 3/1/2019 1:51 PM

Editor: Tjoe, Andreas, MD (Physician)

Service: —

Date of Service: 3/1/2019 1:29 PM

Author Type: Physician

Status: Signed



Stanford
HEALTH CARE
STANFORD MEDICINE

ValleyCare

Emergency Department
Provider Note

Name: Michael Luckert
MRN: 75861773

ED Arrival: 3/1/2019 12:17 PM
Room #: 16

History & Physical

Triage:

Chief Complaint

Patient presents with

- Hand Swelling

Pt reports injury to bilateral hands by PD, both hands are swollen and pt reporting pain diffusely, +csm, +pulses.

HPI

49 Y male here for medical clearance. Patient said that he was assaulted by the police officers on Tuesday. He said he was beat up. Now has swollen hands bilaterally and right shoulder pain. Denies chest pain. He does have a visible bruise to the left lower rib. No shortness of breath. No fevers, cough.

EXHIBIT (3)

VALLEY CARE PLEASANTON
MEDICAL REPORT



VALLEYCARE PLEASANTON
5555 W Las Positas Blvd
Pleasanton CA 94588-4000

Luckert, Michael
MRN: 75861773, DOB: 7/12/1969, Sex: M
Adm: 3/1/2019

03/01/2019 - ED in VCP Emergency Department (continued)

Medication Administrations (continued)

Frequency: ONCE

Admin Instructions: Give with food or milk.

Rate/Duration: — / —

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Timestamps	Action	Dose	Route	Other Information
Performed 03/01/19 1336	Given	600 mg	Oral	Performed by: Maher, Shannon
Documented: 03/01/19 1336				

Other Orders

Medications

IBUPROFEN 200 MG PO TABS (Active)

Electronically signed by: In-Medication Dispense From Medselect on 03/01/19 1332

Status: Active

Ordering user: In-Medication Dispense From Medselect 03/01/19 1332 Ordering mode: Standard

Frequency: 03/01/19 1332 - Until Discontinued

Admin Instructions: SHANNON MAHER: cabinet override

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Medication comments: SHANNON MAHER: cabinet override

Package: 0904-7914-61

Ibuprofen (MOTRIN) tablet 600 mg (Completed)

Electronically signed by: TJoe, Andreas, MD on 03/01/19 1316

Status: Completed

Ordering user: TJoe, Andreas, MD 03/01/19 1316

Ordering provider: TJoe, Andreas, MD

Authorized by: TJoe, Andreas, MD

Ordering mode: Standard

Frequency: STAT Once 03/01/19 1317 - 1 occurrence

Class: E-Prescribe

Acknowledged: Maher, Shannon 03/01/19 1331 for Placing Order

Admin Instructions: Give with food or milk.

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Package: 0904-7914-61

Flowsheets

Advance Directive and POLST

Row Name 03/01/19 1238

Advance Directive

Does patient have an Advance Directive? No

Would the patient like to establish an Advance Directive? Patient offered information but not interested

Interested

Custom Formula Data

Row Name 03/01/19 1409 03/01/19 1257 03/01/19 1252 03/01/19 1221

Relevant Labs and Vitals

Temp (in Celsius) — — — 36.9

Pain 1st Site

EXHIBIT (4.)

SAN FRANCISCO Jail
MEDICAL REPORT

JHS Live03/24/21 13:01

Encounter Report

ID:	19641 (2266017)	Date:	02/26/19 18:48
Patient:	Luckert, Michael L	Provider:	Yu, Laura
BirthDate:	07/12/69	Type:	BHS Screening
Location:		Site:	County Jail 1
Primary	Psychotic Disorder	Secondary	Amphetamine Induced Psychotic Disorder
RFV	(Provisional)	RFV	(Provisional)

Patient Information

Arrest Date 02/26/2019

Referral from JMS Safety Cell

Safety Cell Date: 02/26/2019

Safety Cell Time: 17:50

Safety Cell Placement Reason: Danger to Self, Danger to Others Per S/C sheet: Client was "combative with arresting officers. Resistive with triage process. Did not answer if he was suicidal."

"Pt resistive, and combative with custody. Talking to self during triage. Denied si/hi. Placed into SC due to DTO"-JMS

Charges at Arrest 148(a)(1): RESISTING, OBSTRUCTING, DELAYING OF A PEACE OFFICER OR EMT

602.1(b): INTERFERING WITH A PUBLIC AGENCY

415: DISTURBING THE PEACE

171(b): POSSESSION OF WEAPON IN COURTHOUSE OR PUBLIC BUILDING

Legal Status: Misdemeanor

Language Used to Provide Service: English

History of Community Mental Health Treatment: Yes

Inpatient Psychiatric Hospitals: true

Client reported he has been hospitalized for multiple days in San Leandro before. No MH services or hospitalizations in LCR/CCMS.

Current Mental Health Provider Denies. None on LCR/CCMS.

Psychiatric History In Custody

History of Hospitalizations or 5150 Hold: false

History of Safety Cell Placements: true

Client has been in SF county jail in 2005, 2011, and 2019. Last time he was in custody was in February 2019, he was placed in the s/c for DTO at CJ4 and said he will fight if housed on mainline.

Signed out and housed per class, diagnosed personality disorder nos.

Currently Conserved: No

Regional Center Client: No

Are You Licensed: Yes

Reports Psychiatric Medication Last 3 Months: No

Current Substance Use: Alcohol Amphetamine Cocaine Reported he drank alcohol last night.

Ambiguous of about cocaine use. Reported history of head banging when on meth. Appeared to be detoxing from alcohol, bloodshot eyes. Labile mood could be due to stimulant use.

Risk Assessment

Wish to be Dead: No

Suicidal Thoughts: No

Risk Assessment End

000033

MICHAEL LUCKERT

Plaintiff

VS.

EDWARD GUTIERREZ

DEFENDANT

UNITED STATES DISTRICT
COURT

Case No. 19-CV-08204 - PJH

OPPOSITION TO

SUMMARY JUDGMENT

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(2.) In Support of Documented Pleadings For Evidence AND EXHIBITS FOR OPPOSITION TO SUMMARY JUDGMENT

(3.) Declaration of Michael Luckert In Support of OPPOSITION TO SUMMARY Judgment

(4.) OPPOSITION TO SUMMARY JUDGMENT

(5.) Supplemental TO OPPOSITION FOR SUMMARY Judgment

(6.) (I) AUTHORITY OF CASE LAW (set two)

Default; Default Judgment for failure

7. to Preserve Electronically stored INFORMATION

EXHIBITS

The Disposition sheet of ALL charges dropped

1.A San Francisco Medical report Page 32

1.B San Francisco Medical report Pages 34 and 35

1.C San Francisco Medical Page 39

1.D San Francisco medical report Page 40

1.E Declaration of Brian Mendoza

1.F Declaration of Brian Mendoza

1.G Valley care Medical Pleasanton

valley care medical

1.H Pleasanton

EXHIBITS

1.I Santa Rita Jail
Medical Intake/
Receiving screening
Intake

Declaration of
Edward Gutierrez in
Support of defendants'

1.P Motion For Summary
Judgment Document
70-8 Filed 05/11/22
Pages 2,3

1.J Zuckerberg general
Hospital Page 1 and
2

1.K DUES card For Proof
of OUT of Pocket
EXPENSES

San Francisco Sheriff's
1.Q Department incident
Report Narrative
Incident NO: 190-143-778

1.L custody Activity
cen. 9389699
PFN: ULW-491

1.R San Francisco Medical
report, Page 33

1.M Carpenters Detail
hours

1.S Amended Complaint,
Document 20, filed
08/03/20, Page 5

Original Complaint under
the civil Rights Act. 42
1.N U.S.C. 5 1983, Document
1 Filed 12/17/19, Page 4,
Line 4-5

2 Verification of
Employment

1.O Office of the city
Attorney, Letter dated
April 17, 2024

2.A verification of
employment